

applicant's provisions for liability insurance.

(m) Each applicant for a license for the possession of source material at a facility for the production or conversion of uranium hexafluoride shall protect Safeguards Information against unauthorized disclosure in accordance with the requirements in §§ 73.21 and 73.22 of this chapter, as applicable. Each applicant for a license for source material shall protect Safeguards Information against unauthorized disclosure in accordance with the requirements in § 73.21 and the requirements of § 73.22 or § 73.23 of this chapter, as applicable.

[26 FR 284, Jan. 14, 1961, as amended at 31 FR 4669, Mar. 19, 1966; 34 FR 19546, Dec. 11, 1969; 36 FR 145, Jan. 6, 1971; 37 FR 5748, Mar. 21, 1972; 46 FR 13497, Feb. 23, 1981; 49 FR 9403, Mar. 12, 1984; 49 FR 19626, May 9, 1984; 49 FR 21699, May 23, 1984; 49 FR 27924, July 9, 1984; 53 FR 24047, June 27, 1988; 54 FR 14061, Apr. 7, 1989; 57 FR 18390, Apr. 30, 1992; 68 FR 58807, Oct. 10, 2003; 73 FR 63570, Oct. 24, 2008; 73 FR 78604, Dec. 23, 2008]

#### **§ 40.32 General requirements for issuance of specific licenses.**

An application for a specific license will be approved if:

(a) The application is for a purpose authorized by the Act; and

(b) The applicant is qualified by reason of training and experience to use the source material for the purpose requested in such manner as to protect health and minimize danger to life or property; and

(c) The applicant's proposed equipment, facilities and procedures are adequate to protect health and minimize danger to life or property; and

(d) The issuance of the license will not be inimical to the common defense and security or to the health and safety of the public; and

(e) In the case of an application for a license for a uranium enrichment facility, or for a license to possess and use source and byproduct material for uranium milling, production of uranium hexafluoride, or for the conduct of any other activity which the NRC determines will significantly affect the quality of the environment, the Director, Office of Federal and State Materials and Environmental Management Programs or his/her designee, before

commencement of construction, on the basis of information filed and evaluations made pursuant to subpart A of part 51 of this chapter, has concluded, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to this conclusion is grounds for denial of a license to possess and use source and byproduct material in the plant or facility. Commencement of construction as defined in § 40.4 may include non-construction activities if the activity has a reasonable nexus to radiological safety and security.

(f) The applicant satisfies any applicable special requirements contained in § 40.34.

(g) If the proposed activity involves use of source material in a uranium enrichment facility, the applicant has satisfied the applicable provisions of part 140 of this chapter.

[26 FR 284, Jan. 14, 1961, as amended at 36 FR 12731, July 7, 1971; 40 FR 8787, Mar. 3, 1975; 41 FR 53332, Dec. 6, 1976; 43 FR 6924, Feb. 17, 1978; 49 FR 9403, Mar. 12, 1984; 57 FR 18390, Apr. 30, 1992; 73 FR 5721, Jan. 31, 2008; 76 FR 56964, Sept. 15, 2011]

#### **§ 40.33 Issuance of a license for a uranium enrichment facility.**

(a) The Commission will hold a hearing pursuant to 10 CFR part 2, subparts A, G, and I, on each application with regard to the licensing of the construction and operation of a uranium enrichment facility. The Commission will publish public notice of the hearing in the FEDERAL REGISTER at least 30 days before the hearing.

(b) A license for a uranium enrichment facility may not be issued before the hearing is completed and a decision issued on the application.

[57 FR 18391, Apr. 30, 1992]

#### **§ 40.34 Special requirements for issuance of specific licenses.**

(a) An application for a specific license to manufacture industrial products and devices containing depleted uranium, or to initially transfer such

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products or devices, for use pursuant to § 40.25 of this part or equivalent regulations of an Agreement State, will be approved if:

(1) The applicant satisfies the general requirements specified in § 40.32;

(2) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in 1 year a radiation dose in excess of 10 percent of the annual limits specified in § 20.1201(a) of this chapter; and

(3) The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(b) In the case of an industrial product or device whose unique benefits are questionable, the Commission will approve an application for a specific license under this paragraph only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(c) The Commission may deny an applicant for a specific license under this paragraph if the end uses of the industrial product or device cannot be reasonably foreseen.

[41 FR 53332, Dec. 6, 1976, as amended at 43 FR 6924, Feb. 17, 1978; 58 FR 67661, Dec. 22, 1993; 59 FR 41643, Aug. 15, 1994]

#### § 40.35 Conditions of specific licenses issued pursuant to § 40.34.

Each person licensed pursuant to § 40.34 shall:

(a) Maintain the level of quality control required by the license in the manufacture of the industrial product or device, and in the installation of the depleted uranium into the product or device;

(b) Label or mark each unit to: (1) Identify the manufacturer or initial transferor of the product or device and the number of the license under which the product or device was manufactured or initially transferred, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and (2) state that the receipt, possession, use, and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. NRC or of an Agreement State;

(c) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: “Depleted Uranium”;

(d)(1) Furnish a copy of the general license contained in § 40.25 and a copy of Form NRC 244 to each person to whom he transfers source material in a product or device for use pursuant to the general license contained in § 40.25; or

(2) Furnish a copy of the general license contained in the Agreement State’s regulation equivalent to § 40.25 and a copy of the Agreement State’s certificate, or alternately, furnish a copy of the general license contained in § 40.25 and a copy of Form NRC 244 to each person to whom he transfers source material in a product or device for use pursuant to the general license of an Agreement State. If a copy of the general license in § 40.25 and a copy of Form NRC 244 are furnished to such person, they shall be accompanied by a note explaining that use of the product or device is regulated by the Agreement State under requirements substantially the same as those in § 40.25; and

(e)(1) Report to the Director, Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in § 40.5, all transfers of industrial products or devices to persons for use under the general license in § 40.25. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Commission and the general